

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 01-2133

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George D. Mitchell,

Appellant,

v.

Union Pacific Railroad Company,

Appellee.

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Appeal from the United States  
District Court for the  
District of Nebraska.

**[UNPUBLISHED]**

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Submitted: September 3, 2002  
Filed: September 10, 2002

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Before LOKEN, BYE, and RILEY, Circuit Judges.

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PER CURIAM.

George Mitchell appeals the district court's<sup>1</sup> denial of his motion for a new trial after a jury returned a verdict for Union Pacific Railroad in Mitchell's employment-discrimination action. Upon careful review of the record, we reject the arguments he raises on appeal. Mitchell does not have a statutory or constitutional right to effective assistance of counsel in a civil case, and therefore may not overturn the judgment on that basis. See Taylor v. Dickel, 293 F.3d 427, 431 (8th Cir. 2002). Mitchell has not shown prejudice or pervasive bias, and therefore the district judge did not commit

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<sup>1</sup>The HONORABLE LYLE E. STROM, United States District Judge for the District of Nebraska.

plain error in not recusing sua sponte. See Liteky v. United States, 510 U.S. 540, 555-56 (1994) (disqualification standards); Rush v. Smith, 56 F.3d 918, 922 (8th Cir.) (en banc) (plain error standard), cert. denied, 516 U.S. 959 (1995). Finally, we do not consider the arguments raised for the first time in Mitchell's untimely reply brief. See Fed. R. App. P. 31(a); Neb. State Legislative Bd., United Transp. Union v. Slater, 245 F.3d 656, 658 n.3 (8th Cir. 2001).

Accordingly, we deny Mitchell's pending motions on appeal, we deny appellee's motion to strike as moot, and we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.